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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,219	03/12/2004	Harry Edward Hagaman	HAGAMAN-HARRY-E	7444
7590 06/22/2005				
HARRY E. HAGAMAN P.O. BOX 1229 HEALDSBURG, CA 95448		EXAMINER SLACK, NAKO N		
		ART UNIT 3635		PAPER NUMBER
DATE MAILED: 06/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,219

Applicant(s)

HAGAMAN, HARRY EDWARD

Examiner

Naoko Slack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,13-20,23-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,12,21,22 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,13-20,23-28 and 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/7/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Preliminary Amendment

Applicant's Preliminary Amendment received April 13, 2004 has been entered.

Information Disclosure Statement

Applicant's IDS received June 7, 2004 has been entered and considered.

Response to Election

Applicant has elected Species I: Figure 1, drawn to a method of assembling a wall by providing a binder frame, fiber, and wall surfacing. The figure does not include a forming system with hydraulic ram, forming boards, release membranes, and plaster spacer as illustrated in subsequent figures. Therefore, claims 4, 5, 12, 21, 22, 29 are drawn to non-elected invention.

Claims 1-3, 6-11, 13-20, 23-28, 30-38 have been examined with regard to Figure 1 which includes the binder frame including cross-ties, fiber and wall surfacing.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the glue must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the control unit 98 as described in the specification (page 20). Any structural detail that

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is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-11, 14, 16-20, 23-28, 31, 33-38 are rejected under 35 USC 102(b) as being clearly anticipated by US Patent 5,749,199 to Allen.

Claim 1:

Allen discloses a method of construction comprising the steps of

- (a) providing a forming system (trussing members 18, pressure rods 20, finishing material), a system being the assembly of wall components,
- (b) providing a plurality of fiber (straw bales 4)
- (c) providing a binding (cross-ties 26)
- (d) securing said fiber with said binding in said forming system whereby a structure is formed of bound fiber.

The phrase, "Whereby when the fiber used is an adobe mixture of earth and fiber a structure is formed of adobe" does not further limit the method step, as it states the obvious. The phrase essentially states that when an adobe mixture is used in the structure, the structure is formed of adobe.

Claims 2 and 19:

Allen discloses that wall surfacing material such as dry wall, stucco, or plaster is applied to the straw bale to finish the wall (column 1, lines 32-34)

Claims 3 and 20:

Allen discloses that the application of the wall surfacing material is included in said forming system, as stated above. To reiterate, Allen discloses that wall surfacing material such as dry wall, stucco, or plaster is applied to the straw bale to

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finish the wall (column 1, lines 32-34).

Claims 6 and 23:

Allen discloses the step of urging said fiber and said wall surfacing material together when the finishing is applied to the straw bale structure (column 1, lines 32-34), as the act of finishing the wall brings together the finishing material and the straw bale.

Claims 7 and 24:

The binding has a self locking component in the form of teeth (18A) which impale the straw bale (column 4, lines 47-49).

Claims 8 and 25:

By law, the method of building must conform to structural code and requirements.

Claims 9 and 26:

The forming system includes the process of forming and binding said fiber in consecutive layers (column 4, lines 49-52).

Claims 10,14, 27 and 31:

Straw fibers in a bale are by nature irregular in shape such that adjacent fibers are somewhat interwoven to be their own binder.

Claims 11 and 28:

The fiber on at least one surface is urged to compress said fiber by vertical rods (20, Figure 6).

Claims 16 and 33:

Allen further discloses the installation of building features such as foundation anchorage (12, Figure 6).

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Claims 17 and 34:

Allen discloses shear force transfer devices (column 7, lines 26-33).

Claim 18:

Allen discloses a process comprising the step of securing said fiber (4) with said binder (6) in said forming system whereby a structure (Figure 6) is constructed of fiber.

The phrase "Whereby when the fiber used is an adobe mixture a structure is built of bound adobe" does not further limit the method step, as it states the obvious. The phrase essentially states that when an adobe mixture is used in the structure, the structure is formed of adobe.

In claim 18, the first listed items (a), (b), and (c) do not comprise method steps and therefore do not further limit this method claim.

Claim 35:

Allen discloses a method comprising the steps of

(a) providing a binder frame assembly (column 2, lines 32-33)

(b) providing a plaster (column 1, lines 32-34)

(c) surfacing said binder frame assembly with said plaster whereby a wall is erected (column 1, lines 32-34).

Claims 36 and 38:

Allen's method includes providing a filler material (straw 4, column 2, lines 13-15).

Claim 37:

Allen discloses a process comprising the step of surfacing a binder frame (6) with

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plaster (column 1, lines 32-34) whereby a wall is constructed and finished.

In claim 37, the first listed items (a) and (b) do not comprise method steps and therefore do not further limit this method claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13, 15, 30, and 32 rejected under 35 USC 103(a) as being unpatentable over US Patent 5,749,199 to Allen in view of German Patent DE29701746 to Eichinger.

Claims 13, 15, 30 and 32:

While Allen does not specify the use of glue and/or cement, Eichinger discloses the use of glue with organic fiber such as straw to form building blocks. In view of Eichinger, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use glue to bind the straw, as Allen states the straw bales form the web of the trusses 17 (column 5, lines 39-40) forming an interactive connection between the trusses and the bales to transfer shear forces (column 5, lines 39-47). Therefore, one of ordinary skill in the art at the time the invention was made would be

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motivated to bind the straw with glue to maintain an interactive connection between the truss and bale, thereby improving shear force transfer.

Prior Art

The following reference is considered relevant prior art:

US Patent 5937588 to Gard discloses a wall using bound straw.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (571) 272-6848. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naoko Slack
Primary Examiner
Art Unit 3635

NS
June 17, 2005